

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2405

JUN 26 1991

Ref: 8EWM-FF

Mr. Robert Nelson  
U.S. Department of Energy  
Rocky Flats Plant  
P.O. Box 928  
Golden, CO 80402

Dear Mr. Nelson:

It has come to our attention that several construction and/or mining projects, both ongoing and planned, may be located within the bounds of the Rocky Flats Superfund site. EPA believes it is the Department of Energy's (DOE) responsibility as owner of the Rocky Flats Superfund site and as a party to the Interagency Agreement (IAG) to ensure that any such construction activity does not exacerbate the threat to human health or the environment by spreading the existing contamination, does not otherwise interfere with ongoing Comprehensive Environmental Response Compensation and Liability Act (CERCLA) response activities, and does not result in increased response costs. This letter discusses our concerns in detail.

EPA's concern about this issue was triggered by our understanding that the cities of Broomfield, Westminster, Thornton, and Northglenn (the cities) have received funds from DOE for a project which will divert Woman Creek around the Standley Lake Reservoir and provide the city of Broomfield with an alternative to the Great Western Reservoir as a water supply. As you are aware, this diversion is one component of a larger project, referred to as Option B, which resulted from an intensive option review process conducted in 1990. We understand that DOE has committed to fund Option B over the next four years. We further understand that the intent of Option B is to physically separate municipal drinking water supplies from the Rocky Flats Plant.

In discussions with DOE and the cities during the conceptual phase of Option B, EPA raised the concern that the project must be consistent with the activities specified in the IAG and that the project must comply with the National Contingency Plan (NCP), the Resource Conservation and Recovery Act (RCRA), and CERCLA. As the owner of the Rocky Flats Superfund site and the lead agency for CERCLA activities, DOE is obligated to ensure that this project does not adversely impact human health or the environment, does not result in a release of hazardous substances, and that cleanup activities and schedules required by the RCRA/CERCLA IAG are not adversely affected.

Generally, construction activities located within the boundaries of an Operable Unit, and specifically within the boundaries of an Individual Hazardous Substance Site (IHSS), have the potential to release hazardous substances into the environment thereby endangering public health or the environment. Any such release may also increase DOE and DOE contractor's CERCLA section 107 liability as well as any liability that might attach under common law. For this reason, prior to construction, the potential for a release, the resulting impacts on public health or the environment, and the potential for increased response costs need to be assessed. This assessment must take into account all contaminants which may be released, actual and potential exposure pathways, actual and potential exposure routes, and populations which may be at risk due to exposure. EPA has initiated discussions with the cities regarding such an assessment for Option B. We understand from these discussions that construction on the diversion canal north of the Standley Lake Reservoir (within OU 3) is scheduled to begin in October, 1991. To date, we have not seen an assessment of the potential human health and environmental risks associated with this portion of Option B. It is DOE's responsibility to ensure that such an assessment is completed and is of sufficient quality that conclusions about potential risk are reasonably certain.

Construction within an area where contamination is present may create conditions which are inconsistent with the goals and objectives of ongoing CERCLA activities and which may potentially be inconsistent with the CERCLA remedial action or RCRA corrective action. For projects it is responsible for, DOE must evaluate the potential to create conditions which are inconsistent with the goals and objectives of ongoing CERCLA activities and which may be inconsistent with CERCLA remedial actions or RCRA corrective actions. In addition, since most of the third party construction activities affected by the Rocky Flats Superfund site are likely to occur beyond the facility boundary, we recommend that DOE make a preliminary determination, in consultation with EPA, of the areas of concern for construction activities within OU 3. Such a determination will allow DOE to focus its resources only on specific areas within the OU and will alert the public of DOE interest in those projects. Any such determination will need to be based on existing data and utilize highly conservative assumptions.

For those projects within the identified area of concern where DOE or DOE contractors could incur increased liability but do not have direct involvement, we recommend that DOE notify the owners of those properties undertaking the projects of DOE's interest and ascertain the risks associated with proceeding with such projects prior to completion of a Remedial Investigation/Feasibility Study.

Regarding the Option B project specifically, EPA has separate concerns about compliance with the National Environmental Policy Act (NEPA). We understand that the cities have been advised by DOE that as part of the grant conditions for the portion of Option B which will be funded in FY 91, they must perform an environmental assessment (EA). On June 3, 18, and 17, EPA attended a series of weekly meetings planned for the month of June in which federal, state, and local representatives discussed various aspects of the EA being prepared by the cities of Westminster, Thornton, and Northglenn, in cooperation with DOE, to address potential environmental impacts resulting from the diversion of Woman Creek around the Standley Lake Reservoir. From discussions at the meetings, we understand that the primary purpose of the diversion canal around the northern perimeter of Standley Lake is to isolate Standley Lake from receipt of water originating on the Rocky Flats Plant site so as to allay public fears associated with the interconnection of surface water originating on plant site and Standley Lake. The planned construction ground-breaking date for this canal, October 1, 1991, necessitates that the cities submit a draft environmental assessment to DOE by July 1.

EPA is concerned that the EA being prepared by the cities may not sufficiently accomplish key NEPA objectives because of the following:

1. We understand that the scope of the EA is to be limited to the Standley Lake diversion canal. We are concerned that segmenting the canal project from other portions of Option B which have some level of DOE commitment may preclude performing a realistic assessment of the cumulative impacts associated with Option B. Several of the other key components of the comprehensive project are to be located on the Rocky Flats Plant site. From a NEPA perspective, it is desirable that closely related proposals which essentially define a single course of action, should be evaluated in a single impact statement. Given that the Option B components collectively will serve the same purpose (isolate drinking water supplies from the Plant) and may result in cumulative impacts for that geographic area, EPA recommends that the scope of the proposed EA consider all major components. We believe this position is further supported by Chapter VIII of the Draft Rocky Flats Surface Water Management Plan (SWMP) which was recently released by DOE for public comment. In this section of the plan, the implementation of the entire Option B is described as exceedingly important and an integral part of the overall program of surface water management at the plant. Although the SWMP recognizes that modifications to the various components of Option B are possible during the design phase of each, it also recognizes that DOE intends to implement all components. EPA believes that an EA must consider the effects of all components.

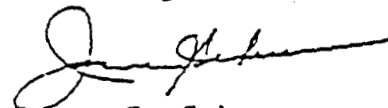
2. The fast-track time frame suggested to conduct the assessment, while well-intended, inherently limits the depth at which environmental issues may be identified and analyzed. During the recent scoping meetings, a cursory discussion identified issues such as: water quality impacts of interceptor canal discharge into the adjacent Big Dry Creek Basin which drains into the South Platte River; air impacts due to the potential remobilization of contaminants during construction; potential seepage into aquifers; water rights issues; and impacts on open space activities. In order to meet public expectations associated with Option B, the purpose of the project must be carefully communicated and identified significant issues must be sufficiently analyzed in the EA to ensure that the solution sought to alleviate water supply concerns does not, in itself, create a new set of problems. Of prime importance to all concerned is that a thorough soil sample analysis be conducted in all areas of planned excavation as part of the assessment.

3. The Option B project, conceived on the basis of a public concern that drinking water supplies may be threatened by Rocky Flats activities, merits significant public involvement. To date, there has been no specific discussion toward providing a period for public disclosure of the EA (i.e. public hearings). We believe that once the draft EA becomes available for review, that would serve as an appropriate time to solicit public comment.

It is our belief that DOE, as the lead agency for the EA, is responsible for assuring that the quality and scope of the EA is sufficient to satisfy NEPA expectations. EPA will gladly provide any requested assistance in achieving those goals.

If you require further clarification of the above items, please contact either Ms. Bonita Lavelle at (303) 294-1067, Mr. Peter Ornstein at (303) 294-7581, or Mr. Larry Kimmel at (303) 293-1237.

Sincerely,



James J. Scherer  
Regional Administrator

cc: Mr. John Rampe, DOE/RFO  
Mr. Frazer Lockhart, DOE/RFO  
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Mayor Robert Schultze, City of Broomfield  
Mayor Margaret Carpenter, City of Thornton  
Mayor Donald Parsons, City of Northglenn  
Ms. Jean Jacobus, Jefferson County